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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/664,806

09/17/2003

Timothy K. Searfoss

3000/22

3469

34456

7590

09/04/2009

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EXAMINER

GUTMAN, HILARY L

ART UNIT

PAPER NUMBER

3612

MAIL DATE

DELIVERY MODE

09/04/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TIMOTHY K. SEARFOSS

Application 10/664,806
Technology Center 2600

Mailed: September 4, 2009

Before KRISTA ZELE *Deputy Chief Appeals Administrator*.
ZELE, *Deputy Chief Appeals Administrator*.

ORDER RETURNING UNDOCKETED APPEAL

This application was electronically received by the Board of Patent Appeals and Interferences on July 28, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

APPEAL BRIEF

A review of the file finds that the status of the Appeal Brief filed August 13, 2008 is unclear and/or is not consistent with the last entered Office Action please acknowledge/ or make of record.

EXAMINER'S ANSWER, EVIDENCE RELIED UPON

Section §1207.02 of the *Manual of Patent Examining Procedure* (MPEP) (Eighth Edition, Rev. 6, September 2007) states:

(A) CONTENT REQUIREMENTS FOR EXAMINER'S ANSWER. The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

....

- (8) Evidence Relied Upon. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and in the case of nonpatent references, the relevant page or pages.

The Examiner's Answer mailed April 02, 2008 is deficient because the "Evidence Relied Upon" section fails to include the reference(s) Hall, Jr. 5,791,714 and Muirhead 6,588,862 cited on page(s) 7 in the Examiner's Answer's grounds of rejection of 20-21 and 31-32 under 35 USC § 103(a).

Appropriate correction is required.

REPLY BRIEF

The review of the file finds that the Reply Brief filed July 14, 2008 includes an improper response which constitutes as a Supplemental Examiners Answer.

CONCLUSION

Accordingly,
it is ORDERED that the application is returned to the
Examiner:

- 1) Acknowledge the Supplemental Brief filed August 13, 2008
- 2) to vacate the Examiner's Answer mailed April 2, 2008...
- 3) to issue a PTOL-90 citing all Prior Art of Record...
- 4) to Acknowledge the Reply Brief; ~~and~~
- 5) for such further action as may be appropriate

If there are any questions pertaining to this Order, please contact that Board of Patent Appeals and Interferences at 571-272-9797

KZ/jgr

Application No. 10/664,806

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